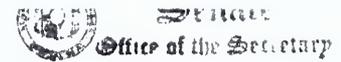


NINETEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
First Regular Session



22 JUL 14 AIO 21

SENATE

RECEIVED BY: \_\_\_\_\_

S. B. NO. 561

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Introduced by SENATOR JOEL VILLANUEVA

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**AN ACT STRENGTHENING THE EMPLOYMENT RIGHTS OF  
MEMBERS OF THE RESERVE FORCE OF THE ARMED  
FORCES OF THE PHILIPPINES AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

Citizen soldiers or reservists play an integral role in defending the Philippines in times of war, armed conflicts and similar occurrences, and in providing assistance during natural disasters, among others.

For example, during the siege carried out by the Maute Group in Marawi City in 2017, two battalions from the military's Reserve Force were mobilized to help thwart terrorism in the area. Aside from these, citizen soldiers also serve in the front lines during times of natural disasters and calamities. According to Brigadier General Marcelo Javier Jr., the Ready Reserves component of the Armed Forces of the Philippines are often mobilized first in times of disaster.<sup>1</sup>

Unfortunately, reservists often risk losing their civilian careers when they render military service. According to a study published in the Harvard Business Review, military reservists in the United States are 11% less likely to be called for a job interview. Accordingly, American employers find it challenging to hire or invest in military reservists due to the possibility that they might be called regularly, and will, thus, take long leaves from work to render military service.<sup>2</sup>

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<sup>1</sup> Zak Yuson, Rappler, On the front line: Volunteer troops in times of crisis. March 30, 2015, accessible at <https://www.rappler.com/move-ph/issues/disasters/88416-reserve-force-disasters-zero-casualty> (last accessed August 1, 2019).

<sup>2</sup> Figinski, Theodore F. Harvard Business Review, Research: Companies Are Less Likely to Hire Current Military Reservists, October 13, 2017, accessible at <https://hbr.org/2017/10/research-companies-are-less-likely-to-hire-current-military-reservists> (last accessed August 1, 2019).

In the Philippines, there is very little protection for reservists in terms of employment rights, such as payment of compensation and wages while in military service, prohibition against discrimination, rights of reservists upon returning to work,<sup>3</sup> as well as payment of social security-related contributions while on military service.

Currently, Article 301 [286] of the Labor Code provides that the fulfillment by the employee of a military or civic duty shall not terminate employment, provided that he/she indicates his/her desire to resume work not later than one month from relief from military or civic duty. Meanwhile, item (f) of Presidential Decree No. 183 (Providing for the Annual Registration of Reservists of the Armed Forces of the Philippines; Granting Security of Tenure to Reservists Employed in Private Firms while Undergoing Refresher Training, Mobilization or Assembly Tests or Annual Active Duty Training in Fulfillment of their Military Obligations; and for Other Purposes) provides that an employee of a commercial, industrial or agricultural firm with an annual gross volume of not less than Php250,000 and with a personnel force of at least 20 employees, who is called to refresher training, active duty or mobilization or assembly test, shall not lose his position or suffer any loss of pay due to his absence in the fulfillment of his military obligation. This rule is substantially reiterated in Section 32 of Republic Act No. 7077, otherwise known as Citizen Armed Forces of the Philippines Reservist Act, which provides that employees who are called to active military training shall not be separated from his/her employment, and shall not be considered as having forfeited his/her seniority right. However, Republic Act No. 7077 provided for a higher monthly operating volume of not less than Php300,000.00.

This bill seeks to strengthen the employment protection rights of reservists to ensure that they will not be adversely affected by their affiliation with and service to the military as members of the Reserve Force of the Armed Forces of the Philippines (AFP).

First, it strictly prohibits discrimination in terms of employment, admission to any organization and referral to employment opportunities on account of one's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP. Second, this bill also clarifies that military service shall not be considered a break in the service of an employee-reservist, and he/she shall be entitled to reintegration, without loss of seniority rights and diminution of pay upon his/her discharge from service or training. Third, this bill provides that reservists rendering military service are entitled to compensation commensurate to their rank and consistent with the compensation being received by their counterparts in the regular force, including the payment of premium contributions to the Government Service Insurance System (GSIS), Philippine Health Insurance Corporation (PhilHealth) and Philippine Home Development Corporation (PAG-IBIG). They also have the option to voluntarily pay their contributions to the Social Security System during this time.

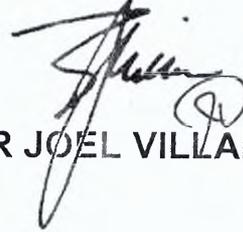
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<sup>3</sup> Transcripts of the Senate Hearing on the rights of reservists under the Committee on Labor and Human Development on December 18, 2017. At p. 32.

An employer, regardless of size or number of employees, who violates the provisions of this Act is liable for a fine ranging from Php50,000.00 to Php500,000.00, or imprisonment ranging from three months to two years, or both, at the discretion of the court.

Indeed, the Filipino people owe these brave men and women for the tremendous sacrifices they are willing to make for the country. Protecting their rights to just compensation and job security is the least we can do.

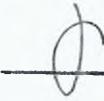
The immediate passage of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read 'Joel Villanueva', with a stylized flourish at the end.

**SENATOR JOEL VILLANUEVA**

22 JUL 14 AIO :21

SENATE

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S. B. NO. 561

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Introduced by **SENATOR JOEL VILLANUEVA**

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**AN ACT STRENGTHENING THE EMPLOYMENT RIGHTS OF  
MEMBERS OF THE RESERVE FORCE OF THE ARMED FORCES OF  
THE PHILIPPINES AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in  
Congress assembled:*

**CHAPTER 1  
GENERAL PROVISIONS**

1  
2  
3  
4 **SECTION 1. *Short Title.*** – This Act shall be known as the “Reservist  
5 Employment Rights Act.”  
6

7 **SEC. 2. *Declaration of Policy.*** – It is hereby declared the policy of the State to:  
8

- 9 a) Strengthen the Citizen Armed Forces or the Reserve Force of the Armed  
10 Forces of the Philippines (AFP) and recognize its role in the mission areas  
11 of the AFP and in national security;  
12  
13 b) Protect the rights of reservists, and prevent and prohibit discrimination on  
14 the basis of rendering military service to the State;  
15  
16 c) Encourage service in the AFP Reserve Force by eliminating or minimizing  
17 the disadvantages to civilian careers and employment which can result  
18 from rendering military service to the State; and  
19  
20 d) Ensure the observance of all employers of the rights of reservists called  
21 to perform military service to the State.  
22

23 The prime duty of the State is to serve and protect the people. For this reason,  
24 the State may call upon the people to defend the State, and in fulfillment thereof,

1 may require its citizens to render military or civil service under conditions  
2 provided by law.

3  
4 **SEC. 3. Coverage.** – The provisions of this Act shall apply to all employers,  
5 whether private or public, including all government agencies and political  
6 subdivisions as well as government-owned or -controlled corporations, non-  
7 government organizations, and other entities.

8  
9 **SEC. 4. Definition of Terms.** – As used in this Act, the following terms shall  
10 mean:

11  
12 a) **Active Duty Training** refers to the compulsory or voluntary trainings for  
13 reserve units and/or individual reservists provided by the AFP to update  
14 their working knowledge in current military organization, doctrines, and  
15 tactics, techniques and procedures (TTPs) in order to maintain a desirable  
16 state of readiness, enable them to satisfy the active service-in-grade  
17 required for promotion to higher grades, and maintain a level of proficiency  
18 and competency for those reservists designated as instructors in  
19 Reserved Officers' Training Corp (ROTC) and other reservist training  
20 programs;

21  
22 b) **Auxiliary Service** refers to the voluntary performance of a service by a  
23 reservist for the purpose of helping maintain local peace and order,  
24 meeting local insurgency and terror threats for intelligence requirements,  
25 assisting in rescue and relief operations during disasters and calamities,  
26 health welfare activities and participating in local socioeconomic  
27 development projects;

28  
29 c) **Citizen Soldier or Reservist** refers to members of the Reserve Force of  
30 the AFP, composed of the following:

31  
32 1) Graduates of the ROTC basic and advance courses and who were  
33 issued orders as enlisted reservists or reserve officers of the AFP;

34  
35 2) Graduates of authorized basic military training instructions who, as  
36 a result thereof, were issued orders as enlisted reservists or reserve  
37 officers;

38  
39 3) Ex-servicemen and retired officers of the AFP who have been  
40 incorporated into the Reserve Force of the AFP; and

41  
42 4) Reservist officers and enlisted reservists including those procured  
43 under existing laws and included in the present AFP roster.

44  
45 There shall be three (3) categories of citizen soldiers or AFP reservists  
46 based on age: the First Category Reserve, the Second Category Reserve,  
47 and the Third Category Reserve, as defined under Republic Act No. 7077,  
48 otherwise known as the "Citizen Armed Force or Armed Forces of the  
49 Philippines Reservist Act."

50

1 Based on the categorization above, the Reserve Force units shall further  
2 be classified into the Ready Reserve, the Standby Reserve, and the  
3 Retired Reserve based on their operational readiness for immediate  
4 deployment/utilization, and as defined under Republic Act No. 7077.  
5

- 6 d) **Employment** refers to the act of hiring and continued engagement and  
7 the reinstatement or reintegration of an employee called to military service  
8 to his/her former position, or if not practicable, to a substantially equivalent  
9 position, without loss of seniority rights and diminution of pay;  
10  
11 e) **Military Service** refers to any service rendered by a citizen soldier or  
12 reservist to the State upon orders of the AFP or call to active duty (CAD)  
13 to meet active-duty training (ADT) requirements, or for any purpose that  
14 the AFP leadership may deem necessary in order to augment and support  
15 the Regular Force operations in times of war, national emergency or such  
16 other times as the national security requires;  
17  
18 f) **Mobilization** refers to the utilization of the Reserve Force of the AFP in  
19 times of emergency to meet threats to national security;  
20  
21 g) **Reintegration** refers to the actual resumption of work of an employee  
22 after his/her military service to his/her former position, or if not practicable,  
23 to a substantially equivalent position, without loss of seniority rights and  
24 diminution of pay; and  
25  
26 h) **Reserve Force** refers to those composing of members of the reserve  
27 components of the AFP.  
28

29 **CHAPTER 2**  
30 **NON-DISCRIMINATION OF RESERVISTS**

31 **SEC. 5. *Anti-Reservists Discrimination.* –**

- 32 a) It shall be unlawful for an employer, or those acting in the interest of the  
33 employer to:  
34  
35  
36  
37 1) Discriminate against an individual in terms of hiring, promotion,  
38 opportunity for training, or compensation, terms and conditions, or  
39 privileges of employment on account of such individual's  
40 membership, application for membership, performance of military  
41 service or application for military service or obligation with the  
42 Reserve Force of the AFP;  
43  
44 2) Print or publish, or cause to be printed or published, in any form of  
45 media, including the internet, any notice of advertisement relating to  
46 employment suggesting preferences, limitations, specifications, and  
47 discrimination based on membership, application for membership,  
48 performance of military service, application for military service or  
49 obligation with the Reserve Force of the AFP;  
50



1 original employment, whether with or without reasonable  
2 accommodations.

3  
4 **SEC. 7. Hiring of Substitute Employee.** – Subject to the provisions of the  
5 Labor Code of the Philippines, as amended, an employer may hire a temporary  
6 employee during the period of the military service of the reservist employee  
7 called to render military service.

8  
9 **SEC. 8. Duty of an Employer to Reintegrate a Reservist and Conditions  
10 for Reintegration.** – It shall be the duty of the employer to immediately  
11 reintegrate a reservist returning from military service to his/her former position,  
12 or if not practicable, to a substantially equivalent position, without loss of  
13 seniority rights and diminution of benefits, immediately after he/she is officially  
14 discharged from military service; *Provided*, That the following conditions shall  
15 be complied with:

- 16  
17 a) The reservist has rendered or performed military service as a member of  
18 the Reserve Force of the AFP;  
19  
20 b) The employer has been given a written notice by the AFP or the reservist  
21 at least fifteen (15) days prior to departing for military service unless  
22 precluded by military necessity, or under all of the relevant circumstances,  
23 the timely provision of notice is otherwise impossible or unreasonable.  
24 The written notice shall, as far as practicable, indicate the duration of  
25 military service and other relevant information; and  
26  
27 c) The reservist has notified the employer of his/her intent to return to work  
28 in accordance with Section 9 hereof.  
29

30 For this purpose, the AFP shall issue and provide the pertinent notices and  
31 documents to reservists and their employers in a timely manner to facilitate the  
32 reintegration of the reservists to their employment.  
33

34 **SEC. 9. Period to Notify of Intent to Return.** – Reservists shall notify their  
35 employers of their intent to return to work, subject to the following  
36 circumstances and conditions:  
37

- 38 a) In the case of reservists called to military service for a definite period and  
39 such period is clearly indicated in the call for active-duty training or such  
40 other notice issued by the AFP, the employer shall be deemed notified of  
41 the intent to return when furnished a copy of the pertinent notice from the  
42 AFP prior to the absence of the reservist for military service;  
43  
44 b) In the case of reservists called to military service for an indefinite period,  
45 and there is no clear indication of the period of service in the notice or call  
46 issued by the AFP, the employer shall be deemed notified of the intent to  
47 return when furnished a copy of the pertinent notice from the AFP indicating  
48 the impending discharge of reservists at least fifteen (15) days prior to the  
49 end of the military service; *Provided*, That the reservists shall not be  
50 deemed ineligible when circumstances do not permit the timely prior

1 notification of absence due to military service and/or intent to return of a  
2 reservist in compliance with this provision: *Provided further*, That reservists  
3 who suffer from illness or injury incurred in, or aggravated during, the  
4 performance of military service shall be allowed to indicate their desire to  
5 return to their former position within a reasonable time as prescribed by a  
6 military doctor; *Provided, finally*, That the AFP shall ensure that its policies  
7 and administrative processes, whenever practicable, allow for at least  
8 fifteen (15) days prior notification to employers regarding the absence of  
9 reservists for military service and their capacity and intent to return to their  
10 employment.

11  
12 **SEC. 10. Compensation for Non-Reintegration of Reservists.** – In the event  
13 that the reintegration of the reservist is impossible due to authorized causes,  
14 the reservist shall be entitled to separation pay in accordance with law.  
15

16 **SEC. 11. Compensation of Reservists for Military Service.** – For the  
17 duration of their military service, reservists shall be entitled to the base pay  
18 commensurate to their rank and consistent with their counterpart in the regular  
19 force, including the payment of premium contributions to the Government  
20 Service Insurance System (GSIS), Philippine Health Insurance Corporation  
21 (PhilHealth) and Philippine Home Development Corporation (PAGIBIG).  
22

23 As far as practicable and except as provided herein, all pertinent social security  
24 contributions of the reservists shall not reflect any gap in contributions.  
25

26 Reservists shall have the option to pay their Social Security System (SSS)  
27 contributions as a voluntary paying SSS member to avoid any gap in their  
28 contribution records and afford their full entitlement to SSS benefits in  
29 accordance with existing guidelines. For this purpose, the AFP shall establish  
30 the necessary administrative processes to assist reservists in the timely  
31 remittance of pertinent social security contributions.  
32

33 **SEC. 12. Multi-stakeholder Engagements and Advocacies.** – The AFP, in  
34 coordination with the Department of National Defense (DND), Department of  
35 Labor and Employment (DOLE) and other relevant agencies and stakeholders,  
36 shall undertake an information and awareness campaign on the employment  
37 rights of reservists.  
38

39 **SEC. 13. Administrative Fines and Penalties.** – An employer who violates  
40 the provisions of this Act shall be liable for a fine ranging from Fifty Thousand  
41 Pesos (Php50,000.00) to Five Hundred Thousand Pesos (Php500,000.00), or  
42 imprisonment ranging from three (3) months to two (2) years, or both, at the  
43 discretion of the court. If the offense is committed by a corporation, trust, firm,  
44 partnership or association or other entity, the penalty of imprisonment shall be  
45 imposed upon the responsible officer or officers of such corporation, trust, firm,  
46 partnership or association or entity.  
47

48 **SEC. 14. Military Duty Leave.** – A reservist shall be entitled to an annual  
49 military duty leave of seven (7) days with pay for the exclusive purpose of  
50 undergoing military training or joining military activities. For this purpose, the

1 SSS and the GSIS shall promulgate the necessary rules for the availment of  
2 this benefit.

3  
4  
5 **CHAPTER 4**  
6 **FINAL PROVISIONS**  
7

8 **SEC. 15. Appropriations.** – The amount necessary for the immediate and  
9 effective implementation of this Act shall be charged against the funds of the  
10 DND and the AFP. Thereafter, such sums as may be necessary for the  
11 implementation of this Act shall be included in the annual General  
12 Appropriations Act.

13  
14 **SEC. 16. Implementing Rules and Regulations.** – Within sixty (60) days from  
15 the effectivity of this Act, the AFP, DND, DOLE, CSC, and other appropriate  
16 government agencies, in consultation with relevant stakeholders, shall  
17 promulgate the rules and regulations for the effective implementation of this  
18 Act.

19  
20 **SEC. 17. Separability Clause.** – Should any provision herein be declared  
21 unconstitutional or invalid, the same shall not affect the validity of the other  
22 provisions of this Act.

23  
24 **SEC. 18. Repealing Clause.** – Section 32 of Republic Act No. 7077 and Items  
25 (f) and (g) of Presidential Decree No.183, Series of 1973 (or “Providing For The  
26 Annual Registration Of Reservists Of The Armed Forces Of The Philippines;  
27 Granting Security Of Tenure To Reservists Employed In Private Firms While  
28 Undergoing Refresher Training, Mobilization Or Assembly Tests Or Annual  
29 Active Duty Training In Fulfillment Of Their Military Obligations; And For Other  
30 Purposes”) are hereby repealed.

31  
32 All other laws, decrees, orders, rules, and regulations or other issuances or  
33 parts inconsistent with the provisions of this Act are hereby repealed or modified  
34 accordingly.

35  
36 **SEC. 19. Effectivity Clause.** – This Act shall take effect fifteen (15) days after  
37 its publication in the Official Gazette or in two (2) newspapers of general  
38 circulation.

39  
40 **Approved,**